

FLORENCE TOWNSHIP PLANNING BOARD

RESOLUTION NO. P.B.-2017-09

Application PB#2017-02

**RESOLUTION OF MEMORIALIZATION
APPLICATION OF GEOPEAK ENERGY, LLC
AMENDED PRELIMINARY and FINAL MAJOR SITE PLAN
BLOCK 160.01, LOT 1.01
HC HIGHWAY COMMERCIAL ZONING DISTRICT
ROUTE 130 REDEVELOPMENT AREA
SOLAR ARRAY
APPROVAL**

Decided: June 27, 2017
Resolution Memorialized: July 25, 2017

WHEREAS, by way of its Resolution 2012-14, the Florence Township Planning Board granted minor subdivision, and preliminary and final major site plan approvals to Burlington Coat Factory Warehouse, a corporation whose principal place of business is 1830 Route 130 North, Burlington, New Jersey to subdivide a parent property into three parcels and to construct on proposed new Lot 1.01 of Block 160.01 a new 198,000 sq. ft. office building, and associated site improvements;

WHEREAS, Geopeak Energy, LLC, of 285 Davidson Avenue, Somerset, New Jersey 08873, has submitted an application seeking to amend the previously granted preliminary and final major site plan approvals concerning Lot 1.01 of Block 160.01 to allow construction of a net-metered accessory solar array at the subject property;

WHEREAS, the proposed solar array would provide electricity for the new office building constructed pursuant to the earlier site plan approval, and to a warehouse also owned by Burlington Coat Factory Warehouse on an adjoining parcel in Burlington Township;

WHEREAS, the making of this application has been authorized the property owner, and the applicant therefore has standing to appear before the Board;

WHEREAS, the applicant is represented by Duncan Prime, Esquire;

WHEREAS, the Board granted certain waivers of ordinance checklist submission items as detailed and recommended in the May 17, 2017 review letter of the Board's Engineer, and found the application sufficiently complete to be heard;

WHEREAS, upon a finding that proper hearing notices had been mailed and published, and that its jurisdiction was therefore proper, the Board opened a hearing on the application at its June 27, 2017 regular meeting;

WHEREAS, the applicant's engineer, Robert Kiser, PE, of Stires Associates, and Adnan Javan, a principal of the applicant and an expert in the development of solar arrays, appeared, were sworn, accepted as experts in their respective fields by the Board, and offered their testimony in support of the application;

WHEREAS, the Florence Township Planning Board has made the following findings of fact and conclusions of law:

Findings of fact:

1. Geopeak Energy, LLC, of 285 Davidson Avenue, Somerset, New Jersey 08873, has submitted an application seeking to amend the previously granted preliminary and final major site plan approvals to allow construction of a net-metered accessory solar array at the subject property located on the southeast side of Route 130 adjoining Burlington Township and known on the Official Tax Map of the Township of Florence as Block 160.01, Lot 1.01.
2. The proposed solar array would provide electricity for the new office building constructed pursuant to the earlier site plan approval for which an amendment is now sought, and to a warehouse also owned by Burlington Coat Factory Warehouse on an adjoining parcel in Burlington Township.
3. An additional array has been proposed on the adjoining Burlington Township parcel also owned by Burlington Coat, and this array will also provide electricity to the warehouse on that site.

4. As presently configured, the array proposed on the Florence property that is the subject of this Resolution will provide 74% of the electricity used at the office building on this property and 14% of the electricity needed for the warehouse on the adjoining parcel in Burlington Township. The array in Burlington Township will provide an additional 48% of the electricity used by the warehouse on that property.
5. The applicant has been authorized to make this application by the owner of the subject property, and therefore has standing to bring this application before the Board.
6. The subject property lies in the Township of Florence HC Highway Commercial Zone District.
7. The proposed accessory solar use is permitted in the HC Zone District, and under the applicable Redevelopment Plan, therefore jurisdiction to hear the application is proper in the Planning Board.
8. The applicant has submitted proper proofs of service of notice and proof of publication of notice of the site plan and minor subdivision hearing, and the Board has jurisdiction to hear this application.
9. The applicant has submitted the following documents in support of its application:
 - a. A completed Township of Florence Land Development Application;
 - b. A completed Township of Florence Major Site Plan Application Checklist of Submission Requirements
 - c. A completed Township of Florence Variance Application Checklist of Submission Requirements;
 - d. Township of Florence Tax Collector's Certifications that no taxes were due on the subject properties at the time of the application;
 - e. Site Plan drawings prepared by Stires Associates, PA and dated 04/20/17 comprised of 11 sheets;
 - f. Environmental Impact Statement dated April 2017 prepared by Stires Associates, PA;
 - g. Township of Florence Land Use Escrow Agreement;
 - h. Certified List of Property Owners within 200' of the subject parcels;

- i. Application and escrow fees as required by ordinance;
 - j. An aerial view of the subject property and adjoining Burlington Coat factory facility in Burlington Township dated 4-20-2017 introduced and entered into evidence in the course of the June 27, 2017 hearing as Exhibit “A-1”;
 - k. An overlay to be placed over Exhibit A-1 showing a revised panel layout that eliminates the previously requested side yard setback variance, introduced and entered into evidence in the course of the June 27, 2017 hearing as Exhibit “A-2”;
 - l. A color-rendered version of the submitted Boundary and Topographic Survey introduced and entered into evidence in the course of the June 27, 2017 hearing as Exhibit “A-3”;
 - m. A series of photos showing views of the subject property looking northeast from Manor Drive toward the facility in Florence Township introduced and entered into evidence in the course of the June 27, 2017 hearing as Exhibit “A-4”.
10. The Board’s Engineer, Hugh J. Dougherty, P.E., C.M.E. of Pennoni Associates, Inc., Consulting Engineers, submitted a review letter dated May 17, 2017 commenting upon the application, which is hereby incorporated into the record.
11. The applicant’s representatives agreed in the course of the public hearing to comply with all of the plan detail and design comments set forth in Mr. Dougherty’s letter.
12. The Board’s Planner, Barbara Fegley, PP, of Environmental Resolutions, Inc., Engineers, Planners, Surveyors, Scientists, submitted a review letter commenting upon the application dated June 20, 2017, which is hereby incorporated into the record.
13. The applicant’s representatives agreed in the course of the public hearing to comply with all of the plan detail and design comments set forth in Ms. Fegley’s letter, except for item #13 on page 5 (pertaining to placing mulched beds within the array area) to which the applicant did not agree to due to a perceived risk of fire.

14. The arrays of solar panels are proposed to be installed on steel racking systems mounted on driven steel piles.
15. The fence is proposed to surround the array area will be decorative black aluminum along the side of the parking lot and vinyl-coated chain link around the remainder of the array.
16. The proposed development, though it now meets the sideyard setback requirement for the proposed arrays along the common boundary with the adjoining property in Burlington Township also owned by Burlington Coat, still needs an exception from the design standard that requires a planted buffer along that property line and possibly, as presently proposed, to the rear where there is an existing naturally-treed buffer that varies in width from 40 ft. to 100 ft. There is an 8 ft. tall berm along the common boundary with the landowner's Burlington Township parcel that largely addresses the buffer concerns of the relevant ordinances in that area. The applicant's representatives also agreed in the course of the public hearing to work administratively with the Board Planner to assure that the existing treed buffer at the rear of the property provides an adequate visual screen.
17. The Board's Planner expressed concern about removal of trees that were required to be planted to fulfill ordinance requirements and to meet conditions of prior approvals. The applicant's representatives therefore agreed in the course of the public hearing to work administratively with the Board's Planner to replace in kind all trees that were required under prior approvals that are being disturbed by the current project.
18. The overall site will continue to meet all applicable stormwater standards.
19. No public comment was offered on the proposed development.

Conclusions of Law:

The Board finds that the proposed design exception for planted buffer area along the boundary with the Burlington Township parcel that is in common ownership should be granted because the concerns of the ordinance are largely met by the existing 8 ft. tall berm. Similarly, a design exception may be granted concerning the buffer to the rear because, upon compliance with the recommendations of the Board Planner pursuant to approval conditions below, the intent of this buffer requirement will also have been met by the proposed development.

Other than the above referenced design exception, the proposed development conforms to Township ordinance standards. The applicant has complied with the application requirements and procedures of the Board for approval of such development. Therefore, the proposed amended preliminary and final major site plan should be approved, subject to appropriate conditions as set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Florence Township Planning Board in the County of Burlington and State of New Jersey that the application of Geopeak Energy, LLC, seeking to amend the previously granted preliminary and final major site plan approvals to allow construction of a net-metered accessory solar array at the subject property, be, and hereby is, approved, subject to the following conditions subsequent which do not toll the running of the time for appeal:

1. All conditions of prior approval resolutions not expressly waived or modified herein shall remain in full force and effect.
2. Compliance with the plan detail and design comments set forth in the review letters of the, the Board Engineer and the Board Planner as agreed on the record of the public hearing.
3. The applicant shall work administratively with the Board Planner to assure that the existing treed buffer at the rear of the property provides an adequate visual screen.
4. The applicant shall work administratively with the Board's Planner to replace in kind all trees that were required under prior approvals that are being disturbed by the current project

5. Compliance by the applicant with affordable housing obligations, if any, in accord with Township ordinances and State statutes in effect at the time of issuance of a Certificate of Occupancy.
6. All taxes and escrow fees for professional review must be paid current and in full.
7. Any additional development on the subject property or any modification to any development pursuant to, or inconsistent with, this approval and the drawings and exhibits presented by the applicant in support of the application or testimony leading to this approval shall require revised approval of this Board.
8. Compliance with all federal, state, county and local laws, rules, regulations and any other governmental approvals which may be required in implementation of this development, including but not limited to: Burlington County Planning Board, Florence Township Office of Construction Code Enforcement, Florence Township Fire Marshall, NJDOT Highway Access Code, and NJDEP noise and wetlands standards. Copies of all applications, permits and certifications related to such approvals shall be filed with this Board. The applicant shall pursue with good faith and due diligence any and all such additional approvals as may be required and shall provide the Board with copies of all reports and approvals for same, including copies of any and all applications filed.
9. If another governmental agency grants a waiver or variance of a regulation, affecting this approval or the conditions attached to it, then this Board shall have the right to review that issue as it relates to this approval and these conditions and modify or amend the same.
10. The form of any permits, deeds, easements, vacations, dedications or other documents related to this proposed development shall be reviewed by the Board Attorney and Board Engineer for consistency with this approval and filed with the appropriate authority. Proof of recording with the County Clerk shall be filed with this Board.
11. The applicant shall post a performance guarantee in an amount accepted by the Township Council after recommendation by the Municipal Engineer and in a form approved by the Township Solicitor.

BE IT FURTHER RESOLVED, that a brief notice of this decision be published in the official newspaper of the municipality within 10 days of the date hereof.

The conditions of this approval shall run with the land and be binding on all successors in interest, purchasers and assignees. In the event that the applicant does not implement this approval within two years of the date hereof (or such other extended date as may be provided by statute or Board action), this approval shall be void, unless, for good cause shown, the applicant seeks extension thereof.

**MOTION TO GRANT AMEDNED PRELIMINARY and FINAL
MAJOR SITE PLAN APPROVAL:**

Moved by : Molimock
Seconded by : Morris
In Favor : Molimock, Morris, Lovenduski
McCue, Wilkie, Collins, Hamilton-Wood
Opposed : None
Abstained : None
Absent : Montgomery

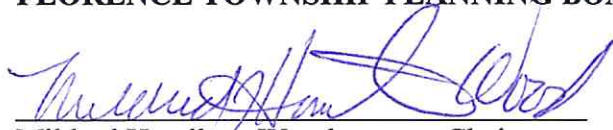
MOTION TO ADOPT RESOLUTION:

Moved by : Lovenduski
Seconded by : Morris
In Favor : Hamilton-Wood, Morris, Lovenduski, Wilkie, Collins
Opposed : None
Abstained : None

FLORENCE TOWNSHIP PLANNING BOARD

Dated: _____

7/25/17

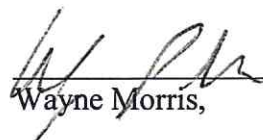

Mildred Hamilton-Wood, Chair

CERTIFICATION

BE IT REMEMBERED that the within written Resolution was duly adopted at a regular meeting of the Florence Township Planning Board held on July 25, 2017 and memorializes a decision taken by the Board on June 27, 2017.

Dated: _____

7/25/17


Wayne Morris, Secretary